

REMARKS

This Response is made to the final Office Action dated September 22, 2005. Claims 1, 2, 5 – 10, 19 – 21, and 26 – 39 are pending. Applicants request reconsideration of the pending claims in view of the following remarks

The Examiner has rejected claims 1, 2, 5-10, 19-21 and 26-39 under the judicially created doctrine of obviousness-type double rejection as being unpatentable over claims 1-28 of U. S. Patent No. 6,592,606. Applicants hereby submit a Terminal Disclaimer to overcome this rejection.

The Examiner has rejected claims 1, 2, 5-10, 19-21 and 26-39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,152,946 to Broome (the “Broome patent”). Applicants respectfully note that the Examiner asserted, in paragraph 4 of the Office Action dated April 20, 2005, that the Broome patent shows a guide wire (32) which is considered to have what the Examiner has characterized as “living hinges” along its length due to its “flexibility to guide the filter device through the vasculature of a patient.” In the present Office Action, the Examiner asserts that the guide wire (32) shown in the Broome patent now is considered to have at least one discrete hinge located proximal to the expandable cage assembly and another located distal to the expandable cage. Applicants respectfully assert that their presently claimed invention is distinguishable from a “living hinge,” as the Examiner initially characterized the guide wire (32) of the Broome patent, since Applicants' presently claimed invention uses a discrete hinge formed on a guide wire. Applicants' discrete hinge is a specific component or fabricated area formed on a guide wire to provide even more flexibility to a conventional guide wire. It is more than just an unidentified area of a guide wire. Rather, the discrete hinge can be formed, as an example, as a notch cut on the guide wire as recited in claim 5, a slot cut into the guide wire as recited in claim 6, or holes cut into the guide wire as recited in claim 8. These are just a few of the numerous ways that a

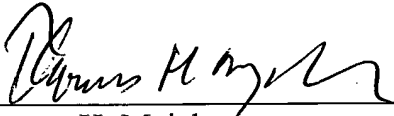
discrete notch in accordance with Applicants' presently claimed invention can be formed on the guide wire. It should be appreciated that even more ways of forming the discrete notch can be utilized without departing from the spirit and scope of the presently claimed invention.

Applicants respectfully submit that the Examiner has failed to identify any component, location, or area on the embodiments of the Broome patent where a discrete hinge, made in accordance with Applicants' presently claimed invention, can be found. This is due to the fact that the Broome patent uses only a conventional guide wire with its expandable cage and fails to disclose any structure which constitutes a discrete hinge. In order to anticipate a claim, the Examiner has the burden of showing that each and every element in the claim is found, either expressly or inherently, in a single prior art reference. MPEP 2131. Applicants respectfully submit that the Examiner has failed to cite a proper anticipatory reference which shows each and every element recited in the pending claims. As such, the Broome patent should be withdrawn as an anticipatory reference.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
FULWIDER PATTON LEE & UTECHT, LLP

By: 
Thomas H. Majcher
Registration No. 31,119

THM:gbr
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
103399.1